



COMMISSIONERS COURT
COMMUNICATION

REFERENCE NUMBER 0

PAGE 1 OF 7

DATE: 1/12/2010

SUBJECT: **RECEIVE AND FILE THE AUDITOR'S REPORT OF THE DISTRICT CLERK'S CRIMINAL FINES, FEES AND COURT COSTS**

COMMISSIONERS COURT ACTION REQUESTED:

It is requested that the Commissioners Court receive and file the Auditor's Report of the District Clerk's Office Criminal Fines, Fees and Court Costs.

BACKGROUND:

In accordance with Local Government Code Subchapter A, Section 115.001, Examination of Records, and Section 115.002, Examination of Books and Reports, the Auditor's Office reviewed the District Clerk's criminal fines, fees, and court costs for the seven (7) month period ended March 31, 2009. The objective of the review was to determine whether controls were adequate to reasonably ensure that criminal fines, fees and court costs were assessed, collected, recorded and reported accurately by the District Clerk's Office.

Attached to this report is a written response from the District Clerk's Office.

FISCAL IMPACT:

There is no direct fiscal impact associated with this item.

SUBMITTED BY: Auditor

PREPARED BY: S. Renee Tidwell
APPROVED BY:



TARRANT COUNTY

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October 16, 2009

The Honorable District Judges
The Honorable Commissioner's Court
The Honorable Thomas A. Wilder, District Clerk
Tarrant County, Texas

Re: Auditor's Report –District Clerk's Office Criminal Fines, Fees, and Court Costs

SUMMARY

In accordance with Local Government Code, Subchapter A, §115.001, *Examination of Records*, and §115.002, *Examination of Books and Reports*, we reviewed the District Clerk's criminal fines, fees, and court costs for the seven month period ended March 31, 2009. The objective of our review was to determine whether controls were adequate to reasonably ensure that criminal fines, fees, and court costs were assessed, collected, recorded, and reported accurately by the District Clerk's Office. During our review, we identified the following issues that require management's attention:

- Observation 1 Controls related to the assessment and recording of criminal fines and fees should be improved.
- Observation 2 Prior to October 2009, amounts owed to the Texas Comptroller's Office were not correctly paid.
- Observation 3 Prior to October 2009, certain amounts shown on the monthly reports sent to the Office of Court Administration were incorrect.

We discussed the observations and recommendations included in this report with appropriate management and staff on December 2, 2009. Attached to this report is a written response from the District Clerk's Office. We also communicated less significant matters to staff during the review.



BACKGROUND

The Criminal Section of District Clerk's Office is responsible collecting fines, fees, and court costs for ten district criminal courts.

New court cost and fee charts are prepared every two years to reflect legislative changes. The current cost and fee schedule was effective January 1, 2008. Felony court costs are composed of various types of state and county criminal fees. The District Clerk's Office began receiving cases from the Community Supervision and Correction Department (CSCD) after implementation of Collection Improvement Program (Code of Criminal Procedures Article 103.0033). The law requires that parolees contact the District Clerk's Office for payment of all fines, fees, and court costs. The collection rate for district criminal fines, fees, and court costs had been historically low since convicts had no incentive to pay while incarcerated. The collection rate has dramatically improved since the implementation of this new program.

The District Clerk's Office offers a payment plan for those who are unable to pay the fines and fees in full. The District Clerk's Office disburses the money collected to the Auditor's Office daily. The Auditor's Office disburses the appropriate fees to the State Comptroller's Office quarterly based on the financial information provided by the District Clerk's Office.

The District Clerk's Office processed 18,659 receipts totaling approximately \$1.4 million during the seven-month period ended March 31, 2009. We did not examine receipts of cash bail bonds or bond forfeitures.

OBSERVATIONS AND RECOMMENDATIONS

Observation 1 – Controls related to the assessment and recording of criminal fines and fees should be improved.

Background

The Judicial Information Management System (JIMS) tracks court ordered charges such as fines, fees, and court costs by individual case number. Based on the offense code and date of offense, a template for the standard fines, fees, and court costs is set up for selection in JIMS. Upon receipt of the judgment, the clerks select the applicable fee codes to assess the types of charges and amounts owed.



Observation

During our review, we found that controls should be improved to ensure that criminal fines and fees are assessed and recorded accurately. JIMS does not have controls to mitigate the risk of certain errors. Specifically:

1. The JIMS does not “flag cases” to indicate that a defendant has multiple cases. We identified instances where payments were applied to the wrong case. According to current procedures, staff should have applied payment to the oldest case first in those instances where a defendant has more than one outstanding case. However, clerks did not search the system to determine whether the defendant had multiple cases. As a result, staff recorded a payment to a case paid in full causing the case to have a “credit” balance.
2. JIMS does not prevent adjustments to fee categories that were not been assessed. These errors are not easily detected since JIMS has many fee categories with similar names.
3. JIMS does not prevent staff from using inappropriate fees codes based on the offense type and date of offense.
4. JIMS does not have controls to prevent the assessment of duplicate fines, fees, or court costs. We identified an instance where the clerk assessed the court costs twice for a same case. As a result, the account receivable for this case was overstated.

In our opinion, the lack of controls within the JIMS coupled with the lack of independent management review, makes the system vulnerable to errors and irregularities.

Recommendations

In order to ensure that payments are posted correctly, JIMS should “alert” staff when multiple cases exist for a defendant. Furthermore, JIMS should be programmed provide alerts when staff: 1) adjusts fees that were not previously assessed on a case, 2) assesses inappropriate fines and fees based on offense type and date, and 3) enters duplicate fines, fees, or court costs on the same case.

Program modifications to JIMS may not be feasible or cost beneficial at this time. As a mitigating control, management implemented procedures to utilize various exception reports to identify cases with credit balances and to review case account activity for adjustments made to un-assessed fee categories. If management continues to use these reports, we believe that the risk of errors related to the conditions described in items 1. and 2., above, would be substantially reduced. However, we still recommend that the programming modifications be considered to strengthen controls.

We encourage the District Clerk's Office to continue to their efforts to develop reports and procedures to mitigate the risk of errors described in items 3. and 4.



Observation 2 – Prior to October 2009, amounts owed to the Texas Comptroller's Office were not correctly paid.

Background

In November 2005, the District Clerk's Office added a new fee category in JIMS in order to accommodate the various charges transferred from the CSCD. The purpose of the fee category was to account for probation fees and other CSCD reimbursements for credit toward grant revenues. The District Clerk's Office began receipting monies for this new fee category in January 2006.

Observation

During the period of January 2006 through March 2009, the District Clerk's Office collected and recorded approximately \$29,000 in a new fee category related to CSCD grant revenue. Of this amount, we identified over \$15,000 should have been recorded to the Compensation for Victims of Crime Fund (CVCF), a state criminal fee, rather than to CSCD grant revenues. This condition occurred because of personnel changes and lack of proper training for staff assuming this function. As a result, the County underpaid the amounts owed to the State Comptroller's Office.

We met with the management and staff of District Clerk's Office and CSCD on April 21, 2009 to discuss procedure changes to mitigate the risk of this issue from reoccurring in the future. As of September 26, 2009, the District Clerk's Office not only corrected all erroneous receipts related to this issue, but also completed extensive research of more than 4,000 cases for correction of assessed amounts. The District Clerk's Office also implemented additional system controls to disable the fee category used incorrectly. The Auditor's Office has submitted the quarterly report for period ending September to remit the additional fees to the State Comptroller's Office. We commend the District Clerk's Office for their immediate attention to correct this error.

No additional recommendations are required.

Observation 3 – Prior to October 2009, certain amounts shown on the monthly reports sent to the Office of Court Administration were incorrect.

Background

The District Clerk's Office submits a monthly collection report to the Office of Court Administration (OCA). The OCA is a state agency in the judicial branch operating under the direction and supervision of the Supreme Court of Texas and the Chief Justice and is governed primarily by Chapter 72 of the Texas Government Code.



Observation

We found that assessed fines and court costs were incorrectly reported to the OCA. This condition occurred because waived fines/costs or jail time credits were not properly assessed in JIMS, yet the waiver was reflected as a reduction of the current assessments. As a result, the assessed fines and fees were understated as reported on the Monthly Collection Reports submitted to the OCA.


During our review, the District Clerk's Office staff began a review of the case files to make appropriate corrections to the assessed fines and court costs. The OCA report should reflect the total assessed amount, then show the court ordered fees waived and credit for jail time served. According to management, this change has been implemented and will be reflected on future OCA reports beginning in October 2009.

No additional recommendations are required.

CLOSING REMARKS

We appreciate the responsiveness and cooperation of the District Clerk staff during our review. Please call me if you have any questions regarding the contents of this report.

Sincerely,


S. Renee Tidwell, CPA
County Auditor

Attachment: District Clerk Response dated December 9, 2009

Distribution:

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TARRANT COUNTY

THOMAS A. WILDER
DISTRICT CLERK

December 9, 2009

Renee Tidwell
County Auditor
100 E. Weatherford St
Fort Worth TX 76196

Dear Renee,

I wanted to express my appreciation for the cooperative spirit in which your staff conducted the recent audit of my Criminal Fines, Fees, and Court Costs operations. While we have some work to do, as the report's findings indicate, I am satisfied with the audit results.

We will immediately begin to review and, where feasible, implement the recommendations related to Observation 1. However, I would like to address the fact that the case management system currently used, JIMS, was never designed to include accounting functions. Over the 20 year period that JIMS has been in use, we have added some accounting functionality dictated by statutory changes, auditor recommendations, and business practices. Where feasible, we will do so once again. However, with an aging system, such as JIMS, it may be neither feasible nor cost effective to implement the functionality requested. Accordingly, I request your support in urging Commissioners Court to approve funding for a replacement system which we requested in 2005 and is still under construction in the criminal area, but not yet addressed in civil, family law, or tax areas.

Due to staffing and scheduling constraints, we requested that the audit team collect information and conduct interviews with as little impact and disruption to District Clerk operations as possible. Working together with Criminal, Accounting, and IT staffs, I am pleased to report that this was accomplished. The entire audit team is to be commended for a job well done.

Sincerely,


Thomas A. Wilder